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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/816,318

04/01/2004

Jeffrey A. Amelse

37,370

9121

7590

04/07/2008

BP America Inc.

Docket Clerk, BP Legal, M.C. 5East

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EXAMINER

BOYER, RANDY

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

04/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/816,318	Applicant(s) AMELSE, JEFFREY A.	
	Examiner RANDY BOYER	Art Unit 1797	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: 9 and 19-24.
 Claim(s) objected to: none.
 Claim(s) rejected: 1-6,8,10-12 and 18.
 Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
 13. ☒ Other: See Attached.

/Glenn A Calderola/
Acting SPE of Art Unit 1797

RB

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's amendments and remarks filed 20 March 2008 are unpersuasive and insufficient to patentably distinguish over the prior art of record. Consequently, Applicant's claims would be rejected as follows:

(a) Claims 1-4, 8, 10-12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weedman (US 3,067,270). Alternatively, claims 1-4, 8, 10-12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weedman (US 3,067,270), as evidenced by Singh (H. Singh and F. Castillo, Process Life Cycle Solutions for the Case of Automated Heat Exchanger Network Retrofit, 22 APP. THERM. ENG. 949-958 (2002)).

(b) Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubbell (US 5,811,629). Alternatively, claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hubbell (US 5,811,629), as evidenced by Weedman (US 3,067,270) and Singh (H. Singh and F. Castillo, Process Life Cycle Solutions for the Case of Automated Heat Exchanger Network Retrofit, 22 APP. THERM. ENG. 949-958 (2002)).

Applicant argues: (1) Hubbell contains no mention whatsoever of ammonia; (2) Weedman does not disclose the use of ammonia to cool the refrigerant ethylene when ethylene is used to crystallize paraxylene; and (3) Examiner does not indicate how Singh could be used to cool an ethylene refrigerant.

In response to Applicant's arguments, Examiner notes that the claims are presently rejected on the basis of the teachings of Weedman and Hubbell taken alone, or as evidenced by Singh. Thus, Applicant's first and second arguments are unpersuasive because one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

With regard to Applicant's third argument, Examiner submits that Singh is evidence that heat transfer and heat exchange between process streams is well known in the chemical engineering arts and well within the competence of the person having ordinary skill in the art. Such being the case, Examiner finds Applicant's limitation "wherein at least one crystallization stage is cooled by indirect heat exchange with an ethylene refrigerant which has been cooled with a stream comprising ammonia" to be of no patentable consequence in view of the teachings of Weedman and/or Hubbell.

/Glenn Caldarola/